

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

LAWRENCE SMITH,

Plaintiff,

v.

MUNFORD POLICE DEPARTMENT,
FNU WILLIS, FNU GREEN, FNU
FLAKE,

Defendants.

No. 2:18-cv-02435-TLP-cgc

ORDER ADOPTING THE REPORT AND RECOMMENDATION

The Magistrate Judge recommends that this Court grant Defendants' Motion to Dismiss (ECF No. 11) Plaintiff Lawrence Smith's Complaint for insufficient service of process. *See* Fed. R. Civ. P. 12(b)(5); (ECF No. 14 at PageID 61.)

The Court may dismiss a complaint if the service of process was insufficient. *See* Fed. R. Civ. P. 12(b)(5). Service of process was insufficient here in four ways. (ECF No. 14.) Plaintiff did not serve a copy of the Complaint to any Defendant. *See* Fed. R. Civ. P. 4(c)(1); (ECF No. 14 at PageID 61.) He also served them by certified mail as opposed to registered or certified return receipt mail.¹ *See* Tenn. R. Civ. P. 4.04 (10); Fed. R. Civ. P. 4(e)(1); (ECF No. 14 at PageID 61.) And Plaintiff did not properly serve Munford's chief executive officer or the city attorney. Fed. R. Civ. P. 4(j)(2)(A); Fed. R. Civ. P. 4(j)(2)(B); Tenn. R. Civ. P. 404 (8); (ECF No. 14 at PageID 61.) Finally, Plaintiff did not serve any Defendant within ninety days. Fed. R. Civ. P. 4(m); (ECF No. 14 at PageID 61.) The Magistrate Judge then recommended this Court dismiss the Complaint.

A party has fourteen days to object to a Report and Recommendation. *See* Fed. R. Civ. P. 72(b)(2). Plaintiff did not object. *See* Fed. R. Civ. P. 5(b)(2), 6(d), 72(b)(2).

This Court thus reviews the Report and Recommendation only for “clear error.” Fed. R. Civ. P. 72(b) advisory committee notes. The Court finds no error and ADOPTS the Report and Recommendation (ECF No. 14) in its entirety.²

The Court therefore GRANTS Defendants’ Motion to Dismiss and DISMISSES Plaintiff’s Complaint WITHOUT PREJUDICE.

SO ORDERED, this 12th day of June, 2019.

s/ Thomas L. Parker

THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE

¹ Certified mail provides the sender with a mailing receipt and tracking number to verify delivery, while return receipt is an additional service that provides the sender with either a hard or electronic copy of delivery confirmation that includes proof of the recipient’s signature. *What is Certified Mail?*, U.S. POSTAL SERVICE, <https://faq.usps.com/s/article/What-is-Certified-Mail> (last visited June 7, 2019).

² Plaintiff did not respond to the Motion to Dismiss within twenty-eight days of service, so the Magistrate Judge ordered him to show cause, within fourteen days, why the Court should not recommend this Court grant the Motion. (ECF No. 12.) Plaintiff did not timely respond. (ECF No. 14 at PageID 59.)